



(Billing Code 5001-06)

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 246 and 252

[Docket No. DARS-2015-0054]

RIN 0750-AI39

**Defense Federal Acquisition Regulation Supplement: Warranty
Tracking of Serialized Items (DFARS Case 2014-D026)**

AGENCY: Defense Acquisition Regulations System, Department of
Defense (DoD).

ACTION: Proposed rule.

SUMMARY: DoD is proposing to amend the Defense Federal
Acquisition Regulation Supplement (DFARS) to require use of the
electronic contract attachments accessible via the Product
Deficiency Reporting and Evaluation Program to record and track
warranty data and source of repair information for serialized
items.

DATES: Comments on the proposed rule should be submitted in
writing to the address shown below on or before **[Insert date 60
days after date of publication in the FEDERAL REGISTER]**, to be
considered in the formation of a final rule.

ADDRESSES: Submit comments identified by DFARS Case 2014-D026,

using any of the following methods:

- o Regulations.gov: <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by entering "DFARS Case 2014-D026" under the heading "Enter keyword or ID" and selecting "Search." Select the link "Submit a Comment" that corresponds with "DFARS Case 2014-D026." Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "DFARS Case 2014-D026" on your attached document.

- o E-mail: osd.dfars@mail.mil. Include DFARS Case 2014-D026 in the subject line of the message.

- o Fax: 571-372-6094.

- o Mail: Defense Acquisition Regulations System, Attn: Ms. Kyoung Lee, OUSD(AT&L) DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Kyoung Lee, telephone 571-372-6093.

SUPPLEMENTARY INFORMATION:

I. Background

On June 8, 2011, DoD published a final rule in the **Federal Register** (76 FR 33166) to establish the requirements and formats for tracking warranties for items subject to Item Unique Identification (IUID) in the IUID registry in the DFARS. The rule added the provision at DFARS 252.246-7005, Notice of Warranty Tracking of Serialized Items, and the clause at DFARS 252.246-7006, Warranty Tracking of Serialized Items, with standard contract attachments and instructions for reporting data necessary to track warranty information for each serialized item.

On April 12, 2012, the Director, Defense Procurement Acquisition Policy (DPAP), issued a memorandum entitled "Implementation of Defense Federal Acquisition Regulation Supplement Provision and Clause for Warranty Tracking of Serialized Items" to encourage the use of a machine readable, fillable Adobe portable document format (PDF) for the electronic submission of warranty information required by the provision and clause. This memorandum also announced planned updates to the Product Deficiency Reporting and Evaluation Program (PDREP) to facilitate the electronic collection, storage and distribution of warranty data and provide for a common, searchable data source for enterprise warranty data.

II. Discussion and Analysis

The electronic warranty attachments entitled "Warranty Tracking Information" and "Source of Repair Instructions" are now available in PDREP. The purpose of this proposed rule is to amend DFARS 246.710, DFARS clause 252.246-7005, Notice of Warranty Tracking of Serialized Items, and DFARS clause 252.246-7006, Warranty Tracking of Serialized Items, to make use of the electronic warranty attachments in PDREP mandatory for solicitations and contracts when warranty of serialized items is anticipated or required. This rule also clarifies the requirements for completion and submission of the warranty attachments.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated

September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD expects that this proposed rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, et seq. However, an initial regulatory flexibility analysis has been prepared and is summarized as follows:

The purpose of this proposed rule is to amend the DFARS to require the use of the electronic formats for the "Warranty Tracking Information" and "Source of Repair Instructions" attachments, required for use in tracking the warranties of serialized items by the provision at DFARS 252.246-7005, Notice of Warranty Tracking of Serialized Items, and the clause at DFARS 252.246-7006, Warranty Tracking of Serialized Items.

Use of the electronic formats will improve the process of collecting and sharing data on warranties provided by contractors on serialized items procured by DoD. Additionally, use of the electronic formats available via the Product Deficiency Reporting and Evaluation Program (PDREP) ensure the data elements for warranty terms are effectively transmitted through various systems such as: Electronic Document Access; Wide Area WorkFlow; the Invoice, Receipt, Acceptance and

Property Transfer module; and the PDREP Warranty Tracking database.

According to data available in the Federal Procurement Data System, in fiscal year (FY) 2014 DoD awarded 5,807 contracts that contain one or more warranty clauses. Subject matter experts within DoD estimate that almost twice as many solicitations (11,500) issued by DoD in FY 2014 may have contained a warranty clause. It is also estimated that an average of four offers may have been received in response those solicitations, or 46,000 total offers. Of those responses, approximately 85%, or 39,100 responses, are estimated to be received from small businesses.

This rule does not create any new reporting or recordkeeping requirements. Offerors and contractors are already required to complete the attachments in accordance with the provision at DFARS 252.246-7005, Notice of Warranty Tracking of Serialized Items, and the clause at DFARS 252.246-7006, Warranty Tracking of Serialized Items. Rather, this rule requires contractors and offerors to complete the warranty attachments using the specified electronic formats.

It is estimated that fifty percent of the time (for approximately 5,750 solicitations) the Government will specify the desired warranty terms, in which case the contractor provides the remaining data elements on the "Warranty Tracking

Information" attachment and the "Source of Repair Instructions" attachment with its proposal, at contract award, or at the point of delivery. The other fifty percent of the time, the Contractor will be required to specify all the warranty terms on the "Warranty Tracking Information" attachment and the "Source of Repair Instructions" attachment.

The rule does not duplicate, overlap, or conflict with any other Federal rules. There are no known significant alternatives to the rule. The impact of this rule on small business is not expected to be significant.

DoD invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (DFARS Case 2014-D026), in correspondence.

V. Paperwork Reduction Act

The rule contains information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C chapter 35); however, these changes to the DFARS do not impose additional information collection requirements to the paperwork burden

previously approved under OMB Control Number 0704-0481, entitled Warranty Tracking of Serialized Items.

List of Subjects in 48 CFR Parts 246 and 252

Government procurement.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 246 and 252 are proposed to be amended as follows:

1. The authority citation for parts 246 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 246—QUALITY ASSURANCE

2. Amend section 246.701 by—

a. Revising the section heading.

b. Adding introductory text.

c. Removing "Duration, enterprise, enterprise identifier, fixed expiration, issuing agency, item type, starting event, serialized item, unique item identifier, usage, warranty administrator, warranty guarantor, warranty repair source, and warranty tracking are defined in the clause at 252.246-7006, Warranty Tracking of Serialized Items"; and

d. Adding, in alphabetical order, the definitions of Enterprise, Enterprise identifier, Issuing agency, Serialized item, Unique item identifier, and Warranty tracking.

The additions read as follows:

246.701 Definitions.

As used in this subpart—

* * * * *

Enterprise means the entity (e.g., a manufacturer or vendor) responsible for granting the warranty and/or assigning unique item identifiers to serialized warranty items.

Enterprise identifier means a code that is uniquely assigned to an enterprise by an issuing agency.

Issuing agency means an organization responsible for assigning a globally unique identifier to an enterprise (e.g., Dun & Bradstreet's Data Universal Numbering System (DUNS) Number, GS1 Company Prefix, Allied Committee 135 NATO Commercial and Government Entity (NCAGE)/Commercial and Government Entity (CAGE) Code, or the Coded Representation of the North American Telecommunications Industry Manufacturers, Suppliers, and Related Service Companies (ATIS-0322000) Number), European Health Industry Business Communication Council (EHIBCC) and Health Industry Business Communication Council (HIBCC)), as indicated in the Register of Issuing Agency Codes for ISO/IEC 15459, located at http://www.aimglobal.org/?Reg_Authority15459.

Serialized item means each item produced is assigned a serial number that is unique among all the collective tangible items produced by the enterprise, or each item of a particular part, lot, or batch number is assigned a unique serial number within that part, lot, or batch number assignment within the enterprise identifier. The enterprise is responsible for ensuring unique serialization within the enterprise identifier or within the part, lot, or batch numbers, and that serial numbers, once assigned, are never used again.

Unique item identifier means a set of data elements marked on an item that is globally unique and unambiguous.

Warranty tracking means the ability to trace a warranted item from delivery through completion of the effectivity of the warranty.

3. Amend section 246.710 by revising paragraph (3) to read as follows:

246.710 Solicitation provision and contract clauses.

* * * * *

(3) When the solicitation includes the clause at 252.211-7003, Item Unique Identification and Valuation, which is prescribed in 211.274-6(a), and it is anticipated that the resulting contract will include a warranty for serialized items—

(i) Use the provision at 252.246-7005, Notice of Warranty Tracking of Serialized Items, in the solicitation if the

Government does not specify a warranty and offerors will be required to enter data with the offer;

(ii) Use the clause at 252.246-7006, Warranty Tracking of Serialized Items, in the solicitation and contract; and

(iii) Include the following warranty attachments, available at

https://www.pdrep.csd.disa.mil/pdrep_files/other/wsr.htm, in the solicitation and contract and see 246.710-70:

(A) Warranty Tracking Information.

(B) Source of Repair Instructions.

4. Revise section 246.710-70 to read as follows:

246.710-70 Warranty attachments.

Follow the procedures at PGI 246.710-70 regarding warranty attachments.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211-7003 [AMENDED]

5. Amend section 252.211-7003 by—

a. Removing the clause date "(DEC 2013)" and adding "(DATE)" in its place; and

b. In paragraph (a), in the definition of "Issuing agency," removing

"<http://www.nen.nl/Normontwikkeling/Certificatieschemas-en-keurmerken/Schemabeheer/ISOIEC-15459.htm> under 'Register.'" and

adding "http://www.aimglobal.org/?Reg_Authority15459." in its place.

6. Amend section 252.246-7005 by—

a. In the introductory text, removing "246.710(3)(i)(A)" and adding "246.710(3)(i)" in its place;

b. Removing the clause date "(JUN 2011)" and adding "(DATE)" in its place; and

c. Revising paragraphs (a) and (b).

The revisions read as follows:

252.246-7005 Notice of Warranty Tracking of Serialized Items.

* * * * *

(a) Definitions. Duration, enterprise, enterprise identifier, fixed expiration, item type, serialized item, starting event, unique item identifier, usage, warranty administrator, warranty guarantor, and warranty tracking are defined in the clause at 252.246-7006, Warranty Tracking of Serialized Items.

(b) Reporting of data for warranty tracking and administration. (1) The Offeror shall provide the information required by the attachment entitled "Warranty Tracking Information" on each contract line item number, subline item number, or exhibit line item number for warranted items with its offer. Information required in the warranty attachment for each warranted item shall include such information as duration, fixed

expiration, item type, starting event, usage, warranty administrator enterprise identifier, and warranty guarantor enterprise identifier.

(2) The successful offeror will be required to provide the following information no later than when the warranted items are presented for receipt and/or acceptance, in accordance with the clause at 252.246-7006—

(A) The unique item identifier for each warranted item required by the attachment entitled “Warranty Tracking Information;” and

(B) All information required by the attachment entitled “Source of Repair Instructions” for each warranted item.

(3) For additional information on warranty attachments, see the “Warranty and Source of Repair” training and “Warranty and Source of Repair Tracking User Guide” accessible on the Product Data Reporting and Evaluation Program (PDREP) website at https://www.pdrep.csd.disa.mil/pdrep_files/other/wsr.htm.

(End of provision)

7. Amend section 252.246-7006 by—

- a. In the introductory text, removing “246.710(3)(i)(B)” and adding “246.710(3)(ii)” in its place;
- b. Removing the clause date “(JUN 2011)” and adding “(DATE)” in its place;
- c. In paragraph (a)—

- i. In the definition of "Issuing agency," removing "<http://www.nen.nl/Normontwikkeling/Certificatieschemas-en-keurmerken/Schemabeheer/ISOIEC-15459.htm>" and adding "http://www.aimglobal.org/?Reg_Authority15459" in its place.
- ii. In the definition of "Starting event," adding ", such as first use or upon installation" after "warranty"; and
- d. Revising paragraph (b).

The revision reads as follows:

252.246-7006 Warranty Tracking of Serialized Items.

* * * * *

(b) Reporting of data for warranty tracking and administration. (1) The Contractor shall provide the information required by the attachment entitled "Warranty Tracking Information" on each contract line item number, subline item number, or exhibit line item number for warranted items no later than the time of award. Information required in the warranty attachment shall include such information as duration, fixed expiration, item type, starting event, usage, warranty administrator enterprise identifier, and warranty guarantor enterprise identifier.

(2) The Contractor shall provide the following information no later than when the warranted items are presented for receipt and/or acceptance—

(A) The unique item identifier for each warranted item required by the attachment entitled "Warranty Tracking Information;" and

(B) The warranty repair source information and instructions for each warranted item required by the attachment entitled "Source of Repair Instructions."

(3) The Contractor shall submit the data for warranty tracking to the Contracting Officer with a copy to the requiring activity and the Contracting Officer Representative.

(4) For additional information on warranty attachments, see the "Warranty and Source of Repair" training and "Warranty and Source of Repair Tacking User Guide" accessible on the Product Data Reporting and Evaluation Program (PDREP) website at https://www.pdrep.csd.disa.mil/pdrep_files/other/wsr.htm.

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